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1 **LAW OFFICES OF TODD M.
2 FRIEDMAN, P.C.**

3 Todd M. Friedman, Esq. (SBN: 216752)
4 Nicholas J. Bontrager, Esq. (SBN: 252114)
5 tfriedman@attorneysforconsumers.com
6 nbontrager@attorneysforconsumers.com
7 369 S. Doheny Dr., #415
8 Beverly Hills, CA 90211
9 Telephone: (877) 206-4741
10 Facsimile: (866) 633-0228

11 *Attorneys for Plaintiff*

12 2014 FEB 18 PM 2:11

13 CLERK U.S. DISTRICT COURT
14 CENTRAL DIST. OF CALIF.
15 SANTA CLARA

16 BY _____

17 **UNITED STATES DISTRICT COURT
18 FOR THE CENTRAL DISTRICT OF CALIFORNIA**

19 CASEY BLOTZER,) Case No. SACV14-00233 JLS (RNBx)
20 INDIVIDUALLY AND ON BEHALF)
21 OF ALL OTHERS SIMILARLY) **CLASS ACTION**
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23 Plaintiff,)
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INTRODUCTION

1. CASEY BLOTZER ("Plaintiff") brings this Class Action Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of TAX DEFENSE NETWORK, INC. ("Defendant"), in negligently and/or willfully contacting Plaintiff on Plaintiff's cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., ("TCPA"), thereby invading Plaintiff's privacy. Plaintiff alleges as follows upon personal knowledge as to herself and her own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.

2. The TCPA was designed to prevent calls like the ones described herein, and to protect the privacy of citizens like Plaintiff. “Voluminous consumer complaints about abuses of telephone technology – for example, computerized calls dispatched to private homes – prompted Congress to pass the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).

3. In enacting the TCPA, Congress intended to give consumers a choice as to how corporate similar entities may contact them, and made specific findings that “[t]echnologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer. TCPA, Pub.L. No. 102-243, § 11. In support of this, Congress found that

[b]anning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

1 Id. at § 12; see also *Martin v. Leading Edge Recovery Solutions, LLC*, 2012 WL
2 3292838, at* 4 (N.D.Ill. Aug. 10, 2012) (citing Congressional findings on
3 TCPA's purpose).

4 4. Congress also specifically found that "the evidence presented to the
5 Congress indicates that automated or prerecorded calls are a nuisance and an
6 invasion of privacy, regardless of the type of call...." Id. at §§ 12-13. See also,
7 *Mims*, 132 S. Ct. at 744.

8 5. As Judge Easterbrook of the Seventh Circuit recently explained in a
9 TCPA case regarding calls to a non-debtor similar to this one:

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11 The Telephone Consumer Protection Act ... is well known for its
12 provisions limiting junk-fax transmissions. A less-litigated part of
13 the Act curtails the use of automated dialers and prerecorded
14 messages to cell phones, whose subscribers often are billed by the
15 minute as soon as the call is answered—and routing a call to
16 voicemail counts as answering the call. An automated call to a landline phone can be an annoyance; an automated call to a cell phone adds expense to annoyance.

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18 *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012).

19 **JURISDICTION AND VENUE**

20 6. This Court has federal question jurisdiction because this case arises
21 out of violations of federal law. 47 U.S.C. §227(b); *Mims v. Arrow Fin. Servs.*,
22 *LLC*, 132 S. Ct. 740 (2012).

23 7. Venue is proper in the United States District Court for the Central
24 District of California pursuant to 18 U.S.C. § 1391(b) and 1441(a) because
25 Defendant is subject to personal jurisdiction in the County of Los Angeles, State
26 of California.

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PARTIES

8. Plaintiff is, and at all times mentioned herein was, a citizen and resident of the State of California. Plaintiff is, and at all times mentioned herein was, a "person" as defined by 47 U.S.C. § 153 (10).

9. Plaintiff is informed and believes, and thereon alleges, that Defendant is, and at all times mentioned herein was, a corporation whose State of Incorporation and principal place of business is in the State of Florida. Defendant, is and at all times mentioned herein was, a corporation and is a "person," as defined by 47 U.S.C. § 153 (10). Plaintiff alleges that at all times relevant herein Defendant conducted business in the State of California and in the County of Los Angeles, and within this judicial district.

FACTUAL ALLEGATIONS

10. At all times relevant, Plaintiff was a citizen of the County of Los Angeles, State of California. Plaintiff is, and at all times mentioned herein was, a "person" as defined by 47 U.S.C. § 153 (10).

11. Defendant is, and at all times mentioned herein was, a corporation and a "person," as defined by 47 U.S.C. § 153 (10).

12. At all times relevant Defendant conducted business in the State of California and in the County of Los Angeles, within this judicial district.

13. On or about September 27, 2013 the Defendant called the Plaintiff on her cellular phone in an attempt to solicit business regarding Plaintiff's alleged tax issues with the Internal Revenue Service and left a message which utilized an artificial or prerecorded voice.

14. On or about September 30, 2013, the Defendant called the Plaintiff on her cellular phone and left a voice message. This call was placed by the Defendant to the Plaintiff at or about 6am.

15. On or about October 9, 2013 the Defendant called Plaintiff on her cellular phone and left a voicemail message.

16. On or about October 17, 2013, the Defendant called the Plaintiff on her cellular phone.

17. These phone call placed to Plaintiff's cellular telephone was placed via an "automatic telephone dialing system," ("ATDS") as defined by 47 U.S.C. § 227 (a)(1) as prohibited by 47 U.S.C. § 227 (b)(1)(A).

18. The telephone number that Defendant, or its agent called was assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. § 227 (b)(1).

19. These telephone calls constituted calls that were not for emergency purposes as defined by 47 U.S.C. § 227 (b)(1)(A)(i).

20. At no time, including as of September 27, 2013, did Plaintiff subscribe or solicit Defendant's services as a customer, provide her number to the Defendant for any reason and/or provide Defendant or its agents with prior express consent to receive unsolicited phone calls utilizing a prerecorded, artificial voice or ATDS, pursuant to 47 U.S.C. § 227 (b)(1)(A).

21. These telephone calls by Defendant, or its agents, violated 47 U.S.C. § 227(b)(1).

CLASS ACTION ALLEGATIONS

22. Plaintiff brings this action on behalf of herself and on behalf of and all others similarly situated ("the Class").

23. All persons within the United States who received any phone call/s from Defendant or its agent/s and/or employee/s to said person's cellular telephone made through the use of any automatic telephone dialing system or pre-recorded, artificial voice within the four years prior to the filling of the Complaint.

1 24. Defendant and its employees or agents are excluded from the Class.
2 Plaintiff does not know the number of members in the Class, but believes the
3 Class members number in the thousands, if not more. Thus, this matter should be
4 certified as a Class action to assist in the expeditious litigation of this matter.

5 25. Plaintiff and members of the Class were harmed by the acts of
6 Defendant in at least the following ways: Defendant, either directly or through its
7 agents, illegally contacted Plaintiff and the Class members via their cellular
8 telephones by using an ATDS or an artificial, pre-recorded voice, thereby causing
9 Plaintiff and the Class members to incur certain cellular telephone charges or
10 reduce cellular telephone time for which Plaintiff and the Class members
11 previously paid, and invading the privacy of said Plaintiff and the Class members.
12 Plaintiff and the Class members were damaged thereby.

13 26. This suit seeks only damages and injunctive relief for recovery of
14 economic injury on behalf of the Class, and it expressly is not intended to request
15 any recovery for personal injury and claims related thereto. Plaintiff reserves the
16 right to expand the Class definition to seek recovery on behalf of additional
17 persons as warranted as facts are learned in further investigation and discovery.

18 27. The joinder of the Class members is impractical and the disposition
19 of their claims in the Class action will provide substantial benefits both to the
20 parties and to the court. The Class can be identified through Defendant's records
21 or Defendant's agents' records.

22 28. There is a well-defined community of interest in the questions of law
23 and fact involved affecting the parties to be represented. The questions of law
24 and fact to the Class predominate over questions which may affect individual
25 Class members, including the following:

26 a) Whether, within the four years prior to the filing of this Complaint,
27 Defendant or its agents sent any phone calls to the Class (other than

1 a message made for emergency purposes or made with the prior
2 express consent of the called party) to a Class member using any
3 automatic dialing system and/or artificial pre-recorded voice to any
4 telephone number assigned to a cellular phone service;

5 b) Whether Plaintiff and the Class members were damaged thereby, and
6 the extent of damages for such violation; and
7 c) Whether Defendant and its agents should be enjoined from engaging
8 in such conduct in the future.

9 29. As a person that received at least one phone call and/or message via
10 ATDS and/or an artificial, prerecorded voice without Plaintiff's prior express
11 consent, Plaintiff is asserting claims that are typical of the Class. Plaintiff will
12 fairly and adequately represent and protect the interests of the Class in that
13 Plaintiff has no interests antagonistic to any member of the Class.

14 30. Plaintiff and the members of the Class have all suffered irreparable
15 harm as a result of the Defendant's unlawful and wrongful conduct. Absent a
16 class action, the Class will continue to face the potential for irreparable harm. In
17 addition, these violations of law will be allowed to proceed without remedy and
18 Defendant will likely continue such illegal conduct. Because of the size of the
19 individual Class member's claims, few, if any, Class members could afford to
20 seek legal redress for the wrongs complained of herein.

22 31. Plaintiff has retained counsel experienced in handling class action
23 claims and claims involving violations of the Telephone Consumer Protection
24 Act.

25 32. A class action is a superior method for the fair and efficient
26 adjudication of this controversy. Class-wide damages are essential to induce
27 Defendant to comply with federal and California law. The interest of Class
28 members in individually controlling the prosecution of separate claims against

1 Defendant is small because the maximum statutory damages in an individual
2 action for violation of privacy are minimal. Management of these claims is likely
3 to present significantly fewer difficulties than those presented in many class
4 claims.

33. Defendant has acted on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the Class as a whole.

FIRST CAUSE OF ACTION
NEGLIGENT VIOLATIONS OF THE TCPA
47 U.S.C. § 227 ET SEQ.

34. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

35. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

36. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq, Plaintiff and The Class are entitled to an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

37. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

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SECOND CAUSE OF ACTION
KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE
CONSUMER PROTECTION ACT
47 U.S.C. § 227 ET SEQ.

38. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

39. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

40. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq, Plaintiff and The Class are entitled to an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

41. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests the Court grant Plaintiff, and The Class members the following relief against Defendant:

FIRST CAUSE OF ACTION
NEGLIGENT VIOLATIONS OF THE TCPA
47 U.S.C. § 227 ET SEQ.

- As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for himself and each Class member \$ 1, 500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

SECOND CAUSE OF ACTION
KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE
CONSUMER PROTECTION ACT
47 U.S.C. § 227 ET SEQ.

- As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for himself and each Class member \$1, 500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
 - Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
 - Any other relief the Court may deem just and proper.

TRIAL BY JURY

Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted January 3, 2014.

~~LAW OFFICES OF TODD M. FRIEDMAN, P.C.~~

By: Todd Friedman
Law Offices of Todd Friedman, P.C.
Attorney for Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Josephine L. Staton and the assigned Magistrate Judge is Robert N. Block.

The case number on all documents filed with the Court should read as follows:

SACV14-00233 JLS (RNBx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

February 18, 2014

Date

By Nancy Boehme

Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

I. (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) CASEY BLOTZER, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED		DEFENDANTS (Check box if you are representing yourself <input type="checkbox"/>) TAX DEFENSE NETWORK, INC.																																																																																																																																
(b) County of Residence of First Listed Plaintiff Orange (EXCEPT IN U.S. PLAINTIFF CASES)		County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)																																																																																																																																
(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. Law Offices of Todd M. Friedman, P.C. 369 S. Doheny Dr., #415, Beverly Hills, CA 90211 Phone: (877) 206-4741		Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.																																																																																																																																
II. BASIS OF JURISDICTION (Place an X in one box only.)		III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant)																																																																																																																																
<input type="checkbox"/> 1. U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3. Federal Question (U.S. Government Not a Party)	Citizen of This State <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in this State <input type="checkbox"/> 4 <input type="checkbox"/> 4																																																																																																																															
<input type="checkbox"/> 2. U.S. Government Defendant	<input type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5																																																																																																																															
		Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input checked="" type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6																																																																																																																															
IV. ORIGIN (Place an X in one box only.)		6. Multi-District Litigation <input type="checkbox"/>																																																																																																																																
<input checked="" type="checkbox"/> 1. Original Proceeding	<input type="checkbox"/> 2. Removed from State Court	<input type="checkbox"/> 3. Remanded from Appellate Court	<input type="checkbox"/> 4. Reinstated or Reopened <input type="checkbox"/> 5. Transferred from Another District (Specify) _____																																																																																																																															
V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check "Yes" only if demanded in complaint.)																																																																																																																																		
CLASS ACTION under F.R.Cv.P. 23: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> MONEY DEMANDED IN COMPLAINT: \$ 5,000,000.00																																																																																																																																
VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 47 U.S.C. 227, et seq., Telephone Consumer Protection Act																																																																																																																																		
VII. NATURE OF SUIT (Place an X in one box only).																																																																																																																																		
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VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court?

Yes No

If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.

STATE CASE WAS PENDING IN THE COUNTY OF:	INITIAL DIVISION IN CACD IS:
<input type="checkbox"/> Los Angeles	Western
<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
<input type="checkbox"/> Orange	Southern
<input type="checkbox"/> Riverside or San Bernardino	Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action?

Yes No

If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.

A PLAINTIFF?	A DEFENDANT?	INITIAL DIVISION IN CACD IS:
Then check the box below for the county in which the majority of DEFENDANTS reside:	Then check the box below for the county in which the majority of PLAINTIFFS reside:	
<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western

Question C: Location of plaintiffs, defendants, and claims? (Make only one selection per row)

A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
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Indicate the location in which a majority of plaintiffs reside:

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Indicate the location in which a majority of defendants reside:

<input type="checkbox"/>	<input checked="" type="checkbox"/>				
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Indicate the location in which a majority of claims arose:

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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C.1. Is either of the following true? If so, check the one that applies:

2 or more answers in Column C
 only 1 answer in Column C and no answers in Column D

Your case will initially be assigned to the SOUTHERN DIVISION.
Enter "Southern" in response to Question D, below.

If none applies, answer question C2 to the right. →

C.2. Is either of the following true? If so, check the one that applies:

2 or more answers in Column D
 only 1 answer in Column D and no answers in Column C

Your case will initially be assigned to the EASTERN DIVISION.
Enter "Eastern" in response to Question D, below.

If none applies, go to the box below. ↓

Your case will initially be assigned to the WESTERN DIVISION.
Enter "Western" in response to Question D below.

Question D: Initial Division?

Enter the initial division determined by Question A, B, or C above: →

INITIAL DIVISION IN CACD IS:

SOUTHERN

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETIX(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? NO YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? NO YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

- A. Arise from the same or closely related transactions, happenings, or events; or
- B. Call for determination of the same or substantially related or similar questions of law and fact; or
- C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY
(OR SELF-REPRESENTED LITIGANT): _____ DATE: January 3, 2014

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))